



12-19-07

AF  
JW**TRANSMITTAL LETTER**  
**(General - Patent Pending)**Docket No.  
704-P-1-USA

In Reply, Application Of: Jeffrey Bryson

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/609,231	June 30, 2000	Mark A. Fadok	71850	3625	2817

Title: **COMPUTER AND HUMAN INTERACTIVE SYSTEM AND METHOD FOR NEGOTIATING THE PURCHASE AND SALE OF GOODS AND SERVICES**COMMISSIONER FOR PATENTS:

Transmitted herewith is:

**APPLICANT'S REPLY BRIEF**

in the above identified application.

- ☒ No additional fee is required.
- ☐ A check in the amount of \_\_\_\_\_ is attached.
- ☐ The Director is hereby authorized to charge and credit Deposit Account No. \_\_\_\_\_ as described below.
- ☐ Charge the amount of \_\_\_\_\_
- ☐ Credit any overpayment.
- ☐ Charge any additional fee required.
- ☐ Payment by credit card. Form PTO-2038 is attached.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**  
Signature

Dated: December 17, 2007

David G. Duckworth  
Reg. No. 39,516  
RUSSO & DUCKWORTH, LLP  
9090 Irvine Center Drive, 2nd Floor  
Irvine, CA 92618  
(949) 724-1255

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

(Date)

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

cc:



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: Jeffrey Bryson

Application No: 09/609,231

Filed: June 30, 2000

Title: COMPUTER AND HUMAN  
INTERACTIVE SYSTEM AND  
METHOD FOR NEGOTIATING THE  
PURCHASE AND SALE OF GOODS  
AND SERVICES

Appeal No.

Examiner: Fadok, Mark A.

Art Unit: 3625

APPLICANT'S REPLY BRIEF

Mail Stop Appeal Briefs  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Reply Brief is in response to the Examiner's Answer dated October 18, 2007.

THE EXAMINER'S ANSWER IGNORES CLAIM LIMITATIONS

Applicant's *claimed* invention is directed to a computer and human interactive system for negotiating the purchase and sale of goods over a network such as the Internet. As set forth in the only independent Claims 11 and 28, the computer and human interactive system includes **both** primary sellers of goods or services **and** at least one virtual seller of goods or services. **As**

claimed, the virtual sellers are not merely customer service representatives and not merely ordinary sellers of their own goods or services. Instead, the virtual sellers provide a separate platform for selling the goods or services of the primary seller when the primary seller is incapable of completing a sales transaction such as when the primary seller's employees have gone home for the day. To clarify the distinction between the primary seller and the virtual seller, the independent claims include the express claim language of "a virtual seller of goods or services who is not the primary seller for selling the goods or services of the primary seller, said virtual seller not possessing custody or control of the goods or services of the primary seller but having a database storing product information concerning the goods or services of the primary seller". In other words, the virtual seller provides a platform for selling the goods or services of another company when company representatives are not available. This platform is capable of being used to conduct sales for many companies, and thus capable of performing sales transactions for a multitude of primary sellers.

Meanwhile, the Examiner completely disregards the explicit claim of language that defines the virtual seller. When scouring the prior art, the Examiner contends that the virtual sellers are described in *Rose* (U.S. Patent No. 5,309,513). The Examiner states:

"Rose teaches assigning ubiquitous agents (virtual agents) to support agents who normally cover incoming calls at an automatic call center (primary sellers) during non-rush times such as holidays, evenings, or weekends (col. 5, lines 10-20)." (Examiner's Answer, pg. 4, para. 3)

However, *Rose* does not teach or describe a virtual seller as claimed by Applicant. First, *Rose* does not describe a seller of any kind. Secondly, *Rose* does not suggest that the “agents” are anything but the employees servicing the needs of the “primary” company’s needs.

*Rose* describes an automated caller distributor (ACD) system in which a computer connects agents located at remote locations through telephone circuits. The persons are connected based upon availability or special skills. During emergencies, the remote agents may be connected for processing the automated caller distributor received calls. This function is described in the paragraph cited by the Examiner:

“In a further example, during an emergency situation, such as an ice storm, the computer 16 may connect any (or all) of the agents to any of the ACDs receiving calls. In addition, during non-rush times, such as a holiday, evening, or weekend, all of the agents usually associated with a give ACD 12a-c may not be present during these low traffic periods. The ACDs may notify the host computer 16 that a call has arrived, and the host computer 16 can assign an agent 32 a-c to the ACD receiving the call, thus saving the cost of manning a give ACD 12a-c by agents during usually closed periods.”

Plainly, *Rose*, and this section cited by the Examiner illustrate that the *Rose*’s automated called distributor system can redistribute calls as circumstances arise. However, there is no suggestion

in this section or anywhere within *Rose*, or anywhere within the prior art for providing a virtual seller which maintains the database of a primary seller for selling the primary seller's goods when the primary seller is not available. This limitation is found in each and every one of the claims, but not suggested in the cited prior art. Therefore, Applicant's claims are believed allowable.

THE EXAMINER'S RESPONSE TO APPLICANT'S  
ARGUMENTS IS WITHOUT ANY BASIS OR SUPPORT

On pg. 10, para. 2 of the Examiner's Answer, the Examiner argues that *Rose* describes that:

“the ubiquitous agents do not own the inventory or the right to sell inventory unless the primary seller (call center) decides that the ubiquitous agents will have the opportunity to sell the product by accessing a database of products under control of the data that is distributed to both the call center and the ubiquitous agents...”

This statement is entirely without support.

There is no suggestion in *Rose* that the ubiquitous agents do not own the inventory or right to sell inventory. Plainly, the suggestion is that the ubiquitous agents are employees of the

call center and there is no suggestion that the call center is anything but owned and operated by the company having the need for a call center.

Further, the Examiner's statement that *Rose* suggests that "ubiquitous agents will have the opportunity to sell the product..." illustrates the lengths at which the Examiner has gone in attempting to reject the claims. Nowhere does *Rose* suggest that the ubiquitous agents sell products. In fact, the words "sell" and "product" or any words similar to these words are not found anywhere within *Rose*. Thus, the Examiner's arguments that *Rose* describes ubiquitous agents having the opportunity to sell products is without any basis for support, and the Examiner provides none.

#### CLAIMS 12 AND 29 INCLUDE ADDITIONAL BASIS FOR PATENTABILITY

Dependent Claims 12 and 29 include additional basis for patentability. Specifically, these claims include the limitation that the selection of the virtual seller is based upon a determination of whether the primary seller has ceased sales operations. On pg. 7 of the Examiner's Answer, the Examiner argues that *Kannan* teaches business rules in deciding whether to apply a live operator and intelligent routing where live operators are associated with calls. In making this assertion, the Examiner cites pg. 5, para. 94 - pg. 10, para. 120. First, business rules in deciding whether to apply a live operator is not the same and does not provide the suggestion for Applicant's claimed limitation that the virtual seller is selected based upon a determination of whether the primary seller has ceased sales operations. Secondly, the Examiner's assertion that

“business rules” are found within five pages of *Kannan* provides no specificity as to what the Examiner is referring to. Applicant is unable to glean any suggestion as to what the Examiner is referring to when he states that *Kannan* describes business rules in deciding whether to apply a live operator.

#### CLAIMS 13 AND 30 PROVIDE ADDITIONAL BASIS FOR PATENTABILITY

Claims 13 and 30 are similar to Claims 12 and 29, but are further narrowed wherein the selection of a virtual seller instead of the primary seller is based upon a determination of whether the primary seller has ceased sales operations for the day in accordance with predetermined periods of the day.

Again, the Examiner argues on pg. 7 of his Answer that *Kannan*’s teaching of business rules in deciding whether to apply a live operator according to the policy of a company an intelligent routing where live operators are associated with calls suggests Applicant’s claim limitations. However again, the five pages of *Kannan* cited by the Examiner do not provide any suggestion for the selection of a virtual seller or any other type of seller upon the determination of whether the primary seller has ceased sales operations. To the contrary, *Kannan* suggests that once the primary seller has ceased sales operations, its sales operations have ceased. Thus, there can be no suggestion for continued sales operations by another, and certainly by a virtual seller.

CONCLUSION

The Examiner's rejections of Claims 11 - 20 and 28 - 36 under 35 U.S.C. §103 is improper, and allowance of these claims is requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David G. Duckworth". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

David G. Duckworth  
Registration No. 39,516  
Attorney for Applicant



DEC 18 2007



**CERTIFICATE OF MAILING BY "EXPRESS MAIL" (37 CFR 1.10)**

Applicant(s): **Jeffrey Bryson**

Docket No.

**704-P-1-USA**

Application No.

**09/609,231**

Filing Date

**June 30, 2000**

Examiner

**Mark A. Fadok**

Customer No.

**71850**

Group Art Unit

**3625**

Invention:

**COMPUTER AND HUMAN INTERACTIVE SYSTEM AND METHOD FOR NEGOTIATING THE PURCHASE AND SALE OF GOODS AND SERVICES**

I hereby certify that the following correspondence:

**APPLICANT'S REPLY BRIEF**

*(Identify type of correspondence)*

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

**December 17, 2007**

*(Date)*

**Deborah Rios**

*(Typed or Printed Name of Person Mailing Correspondence)*

  
*(Signature of Person Mailing Correspondence)*

**EM156471975**

*("Express Mail" Mailing Label Number)*

**Note: Each paper must have its own certificate of mailing.**